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COMMERCIAL INVENTOR
OCT 04 2006Remarks:

Claims 1-23 are currently pending in this application. By the present amendment, Applicant's have amended claims 1, 17 and 21 to further clarify the claimed invention. No new matter is believed introduced by way of the present amendments.

Claim Rejections - 35 U.S.C. §103(a)

In the Office Action mailed August 4, 2006, claims 1-23 were rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,937,091 to Zallie et al. in view of the non-patent reference to Magnuson. Applicants respectfully assert that the present amendments to claims 1, 17 and 21 have rendered said rejection moot as discussed below.

As discussed in the prior response mailed May 22, 2006, the pending claims are directed to Applicant's discovery that using an amount of a non-dairy protein with an amount of non-pregelatinized, modified (e.g., thermally inhibited or chemically modified) starch, advantageously provides a cheese-substitute product comparable to that of 'real' or natural cheese while using significantly less casein protein. The compositions of the invention allow for the preparation of a nutritionally and organoleptic equivalent cheese substitute having similar manufacturability as a conventional cheese. The use of significantly less casein protein than in a conventional cheese product is a surprising result that was previously undiscovered.

In the Office Action mailed August 4, 2006, it was remarked that it was not seen how the use and blending of starches as taught by Zallie et al. differed from the claimed invention. Applicants respectfully assert that the present application as well as the presently amended claims are not directed to blends of starches but instead to starch solely consisting of non-pregelatinized, modified starch. The use of non-pregelatinized, modified starch provides the desired nutritional and organoleptic properties while just as importantly, providing suitable processing characteristics, especially viscosity, to the cheese composition (See application as originally filed at page 11, lines 13-28).

Applicants respectfully direct the attention of the Examiner to Figure 3 of the application as originally filed which illustrates the relative viscosities of several examples during processing of the cheese compositions. Starches A and B reflect non-pregelatinized, modified starches which exhibit desirable processing characteristics including a pronounced increase in viscosity throughout the process. This illustrates the availability of free water during initial mixing for dissolving the casein protein.

In contrast to the performance of non-pregelatinized, modified starches as presently claimed, the use of pregelatinized starches, either individually or in a blend as

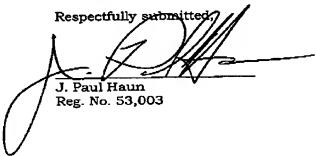
taught by Zallie et al. is unsuited for use in the cheese compositions of the present invention as the pregelatinized starches will immediately absorb the available free water causing an immediate spike in viscosity (See application as originally filed at page 9, lines 21-22) while also consuming the water necessary to dissolve the casein protein. The use of pregelatinized starch would provide an essentially opposite performance curve to Starches A and B in Figure 3 with an immediate spike in viscosity followed by a reduction in viscosity due to shear forces experienced by the mixture. Ultimately, if pregelatinized starch is substituted for the non-pregelatinized modified starch as presently claimed, the resulting cheese composition would not be suitable as a replacement cheese.

While Magnuson discusses the use of vital wheat gluten in a variety of food applications, Magnuson fails to address the presently claimed advantages of using only non-pregelatinized, modified starches in reduced casein cheese compositions. As such, Magnuson fails to cure the aforementioned deficiencies of Zallie et al.

For at least these reasons, Applicants respectfully assert that Zallie et al. and Magnuson, considered either alone or in combination, fail to render the presently amended claims as *prima facie* obvious. As such, Applicants respectfully request reconsideration and allowance of the claims as it is believed that the present amendments have overcome the prior rejections. Early notice of allowability is kindly requested. Please contact the undersigned if it will assist in expediting prosecution of these claims.

Please apply any charges or refunds to Deposit Account No. 07-0900 and provide notification of such transaction(s) to the address below.

Respectfully submitted,



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